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MEMORANDUM



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Arizona Corporation Commission

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FROM: Ernest G. Johnson  
Director  
Utilities Division

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JAN 28 2009

AZ CORP COMMISSION  
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DATE: January 28, 2009

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RE: ARIZONA WATER COMPANY - REQUEST FOR ADDITIONAL TIME TO COMPLY WITH FILING REQUIREMENT - DECISION NO. 68442 (DOCKET NO. W-01445-05-0389)

In Decision No. 68442, dated February 2, 2006, the Arizona Corporation Commission ("Commission") approved the application of Arizona Water Company ("Arizona Water" or "the Company") for an extension to its Certificate of Convenience and Necessity ("CC&N"). The application involved an adjacent extension of Arizona Water's Coolidge system in Pinal County to three parcels of land totaling 640 acres. For ease of reference, the three parcels will be referred to as the Skousen, Lorenson and Vail parcels. The Decision approved the application subject to certain compliance requirements. These requirements were:

- The Company charge its existing rates and charges for its Coolidge system in the proposed extension area.
- The Company file within 365 days of the Decision a copy of the respective developer's Certificate of Assured Water Supply issued by the Arizona Department of Water Resources ("ADWR").
- The Company file within 365 days of the effective date of the Decision, copies of any executed main extension agreements.
- The Company file within 365 days of the Decision, copies of the respective Certificates of Approval to Construct issued by the Arizona Department of Environmental Quality ("ADEQ") for the construction of mains in the three extension areas.

Since the date of the Decision, Commission CC&N extension decisions no longer require the filing of main extension agreements in the CC&N docket as a compliance item. The requirement was redundant because the Commission rules require the filing of main extension agreements with Staff.

On December 27, 2006, the Company filed a request for a one-year extension of time to comply with Decision No. 68442. On January 17, 2007, the representative of the owner of the third parcel, the Vail parcel, filed a letter in the Docket supporting the Company's request for a time extension which included the following:

"As my company is still evaluating its development plans for our property, it would be detrimental to my company not to have the assurance that there is a certificated water provider to provide water service to our development. I support Arizona Water Company's request for additional time, and my company still desires to receive water service from Arizona Water Company."

By Procedural Order, dated February 1, 2007, the Commission granted an extension of time until February 2, 2008, to comply with the Decision.

Within a year, on December 13, 2007, the Company filed a request for an additional extension of time to complete the compliance requirements of Decision No. 68442. By then, the Company had fulfilled the compliance requirements for two of the three parcels. A Procedural Order, dated January 24, 2008, approved the time extension for compliance until February 2, 2009.

On December 17, 2008, the Company filed a request for a third extension of time; this one for a two-year extension. Attached to the request was an undated letter from the Chief Executive Officer of Vail and Kleck, L.L.C., owners of the Vail parcel. The letter asserted that service was still needed from Arizona Water and that development would begin within twenty-four months, "if market conditions do not worsen."

The request for a time extension relies on the state of the economy and real estate market to justify the need for the extension. The Company argues that cancellation of its CC&N may result in "additional barriers to a market recovery and economic hardships when these developments are ready to proceed" and that there are 14 customers currently being served in the Lorenson parcel. The Company also reminds the Commission that it has already complied with Decision No. 68442 for the two other parcels and its inability to satisfy the conditions concerning the Vail parcel are beyond its control.

Reasons against approving a third time extension for Arizona Water include the time and expense the extensions are causing Arizona Water, its ratepayers and the Commission. Also, three years have passed since Decision No. 68442 was issued and it appears the developer of the Vail parcel has made little or no progress toward development. To put it mildly, the real estate market in Pinal County is in the doldrums and even the parcel owner does not foresee development for at least another two years. This stretches any interpretation of the term "need for service".

On the other hand, the impact of non-approval of the time extension and ultimate removal of the Vail parcel from Arizona Water's CC&N could be to further depress the value of the parcel in a market where property values are depressed. The availability of water service from a large, financially stable water utility is an asset to any development and removing it would have a detrimental effect on the value of this particular parcel while neighboring, undeveloped parcels would not be affected. Also, Arizona Water has complied in full with Decision No. 68442 regarding the other two parcels which shows a good faith effort to comply with the Decision. In addition, the Vail parcel is a small area (one-quarter of a section, or 160 acres) which, over the past three years, has become surrounded on three sides by Arizona Water service territory and the fourth side is just one section away from Arizona Water territory. It is difficult to imagine the circumstances under which it would be economically or

operationally feasible for a water provider other than Arizona Water to serve the parcel. Finally, although undated, Arizona Water has presented evidence of a continued request for service which is one factor this Commission generally looks to in its determination of CC&N extensions requests.

In consideration of all the above, Staff believes the reasons to approve the two-year time extension slightly outweigh the reasons to deny, and Staff recommends the Commission approve Arizona Water's request for a two-year time extension.

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DOCKET NO. W-03512A-03-0279

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